IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3686 OF 2005

Kunal Sadanand Joshi through his
mother Dr.Asha Sadanand Joshi. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
Mr. V. M. Thorat for the Petitioner.
Mr. R. D. Rane, GP for the Respondents.
.....

CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 21, 2005.

P.C.:

The Petitioner has appeared for the H. S. C. Examination. It has been stated in these proceedings that the Petitioner filled up the form for the Common Entrance Test conducted by the State of Maharashtra (MH-CET-2005) for admission to medical courses to Government Colleges throughout the State. According to the Petitioner, his grandfather Dr.Balkrishna Ramchandra Joshi participated in the freedom struggle and a Sanmanpatra has been issued to him on 11th

August 1986 by the State Government.

2. In the Rules which have been prescribed by the State Government, an addition of marks is contemplated if a candidate is a son or daughter of a freedom fighter or a child of a deceased son or daughter of a freedom fighter. The relevant provision in that regard is as follows :

> "FREEDOM FIGHTER (FF)
>
> Addition of marks will be considered if the candidate is a son/daughter of a Freedom fighter or the child of deceased son/daughter of the freedom fighter.
>
> The candidate must submit certificate from the District Magistrate of the District in which the Freedom Fighter was sentenced to jail or has suffered in any other manner as mentioned in paragraph 4, Appendix (A) accompanying Government Resolution, Education and Social Welfare Department, No.MIS 1465/R dated 23rd November 1965. The certificate must specify that the period of imprisonment was not less than one month; or fine of not less than Rs.100/- or death in action; or award of Sanman-patra".

This rule, it has been stated, was framed in pursuance of a Government Resolution of 1965.

3. The grievance of the Petitioner in these proceedings is that an additional weightage is given only to (i) a son or daughter of a freedom fighter; and to (ii) a child of a deceased son or daughter of a freedom fighter. The Petitioner submits that the prescription that the grandchild of a freedom fighter can avail of a weightage of marks only in cases where the son or daughter of the freedom fighter is deceased, is discriminatory and arbitrary. According to the Petitioner the same benefit should be given to a grandchild of a freedom fighter even if the son or daughter of a freedom fighter is still alive. Reliance is sought to be placed on the Rules governing admission to Agricultural Universities in the State of Maharashtra where, according to the Petitioner, no such distinction has been drawn.

4. Having heard Counsel appearing on behalf of the Petitioner, we do not find any merit in the submission which has been urged before the Court. The relevant rule governing the Common Entrance Test essentially provides for an additional weightage of marks to sons or daughters of freedom fighters. The

State Government has considered it appropriate as a matter of policy that such a benefit ought not to be given to every person in the lineage of a freedom fighter. The benefit is to a son or a daughter of a freedom fighter. A limited relaxation has been allowed in a situation where the son or daughter of a freedom fighter is deceased. This essentially is a matter of policy. The Court would not be justified in directing that the benefit be extended to all grandchildren irrespective of whether the son or daughter of a freedom fighter is alive. The policy is founded on a reasonable classification based on the hardship which results to a family of a freedom fighter on the untimely death of his son or daughter. The classification which has been made by the rules is based on an intelligible differentia and has reasonable nexus with the object which is sought to be achieved by the classification. No claim of discrimination can be founded on the basis of rules which are applicable for non-Agricultural Universities. Medical admissions are extremely competitive, where a large multitude of students competes for scarce seats. Concessions, therefore, have to be strictly defined and justified. The contention of the Petitioner

that there is hostile discrimination is devoid of merit. We do not find that the Government Resolution dated 23rd November 1965 can be pressed in aid to justify the grant of any benefit as is sought to be claimed by the Petitioner.

5. The Petition is accordingly dismissed.

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